IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

WEDNESDAY, THE 7TH MARCH 2007 / 16TH PHALGUNA 1928

CRL.A.No. 390 of 2005()

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ST.3397/1999 of JUDL.MAGISTRATE OF FIRST CLASS-III, KOTTAYAM

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APPELLANT: COMPLAINANT

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SURESH RAJ, MANNOOPARAMBIL,
THIRUVAMTHUCHAL, KOTTAYAM.

BY ADV. SRI.P.RAVINDRA BABU

RESPONDENTS: ACCUSED & STATE OF KERALA

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1. NATARAJAN N., AMBALAKUNNEL HOUSE,
PERUMBAIKADU P.O., PARAMPUZHA, KOTTAYAM,
(PROPRIETOR, NARAYANA JEWELLERS, KOTTAYAM)

2. STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SRI.PUZHAKKARA MUHAMMED.
SRI.M.NARENDRA KUMAR
SMT.LEENA KRISHNAN

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 07/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**J.M. JAMES, J.**

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Criminal Appeal No. 390 of 2005

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Dated this the 7th March, 2007.

**J U D G M E N T**

The complainant and accused were before the court below, Judicial First Class Magistrate Court-III, Kottayam, a complaint having preferred by the complainant, under Section 138 of the Negotiable Instruments Act, against the first respondent. On the appointed day, when the case was posted for evidence, the complainant was absent, and an application was made. But the application was dismissed, as the case was posted for adducing evidence, by the complainant, as the last chance, and the accused was acquitted. Hence, this appeal after obtaining leave.

2. On appreciating the facts that are available on record, I am of the view that an opportunity be given to both sides to adduce evidence, and dispose of the matter on merit.

3. Therefore, I set aside the impugned order, dated 12.11.2001, and restore S.T.No.3397/1999, to the file of the Judicial First Class Magistrate Court-III, Kottayam.

4. The parties shall appear before the court below on 12.4.2007.

5. The learned Magistrate shall dispose of the matter, within three months, from the date of appearance of the parties, as this case was filed in the year 1999, and pending so long.

Criminal Appeal is allowed as above.

**J.M. JAMES,**
**JUDGE**

nj.